

UNITED STATES DEPARTMENT OF AGRICULTURE

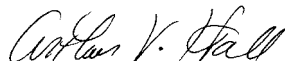
Farm Service Agency
Washington, DC 20250

Notice FLP-195

For: State and County Offices

**Applying Loan Deficiency Payments (LDP's) and Marketing
Assistance Loans to Delinquent Farm Loans**

Approved by: Acting Deputy Administrator, Farm Loan Programs



1 Overview

A

Background

The 2001 Appropriations Act, October 28, 2000, Pub. L.106-387, section 845(b) requires FSA to receive a delinquent debtor's Marketing Assistance Loans (previously known as commodity loans) and Loan Deficiency Payments (LDP) and apply them to delinquent Farm Loan Program (FLP) borrowers' loan. Section 845(b) states:

"Any payment made by the Commodity Credit Corporation to a producer as a result of the amendment made by section (a) shall be credited toward any delinquent debt owed by the producer to the Farm Service Agency."

The payments in section (a) are Marketing Assistance Loans and LDP's made under subtitle C of the Agricultural Market Transition Act (7 U.S.C. 7231 et seq.)

B

Purpose

This notice provides direction and clarification for taking Marketing Assistance Loans and LDP's for payment on delinquent FLP loans.

Note: Section 845(b) provides the procedure for receiving these payments, therefore, this action is not an administrative offset according to RD Instruction 1951-C. Because the National Appeals Division (NAD) appeals may not be used to seek review of statutes, 7 CFR Section 11.3(b), FSA does not believe that the Section 845(b) process is appealable to NAD. Thus, it is not necessary to provide appeal rights. Review rights to NAD should be provided since NAD is the decision maker on whether a case can be appealed.

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Disposal Date

November 1, 2001

Distribution

State Offices; State Offices relay to County Offices

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1 Overview (Continued)

C

Contact

If there are questions:

- County Offices shall contact the State Office
 - State Offices shall contact the Loan Servicing and Property Management Division at 202-720-4572.
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2 Action

A

Notification to Borrowers

Market Assistance Loans and LDP's are to be credited to the FLP borrowers' delinquent loans and any delinquent lease payments. The 2001 Appropriations Act requires FSA to receive these payments.

Use the following insert in your letter notifying delinquent farm loan borrowers that the Marketing Assistance Loans or LDP payments taken and credited to their account is reviewable by NAD but is not appealable.

“The 2001 Appropriations Act, October 28, 2000, Pub. L. 106-387, section 845(b) requires the Farm Service Agency (FSA) to receive a delinquent debtors' Marketing Assistance Loans and Loan Deficiency Payments (LDP) and apply them to delinquent Farm Loan Program loans. Your FSA farm loans were delinquent in the amount of \$(**insert amount**). Your (**insert type of payment**) payments were taken as a result of your delinquent farm loans. If your loans continue to be delinquent, payments scheduled to be made to you will be taken until your account is current”.

B

When to take Payments

The borrower must be delinquent according to FSA's definition of a delinquent borrower. A delinquent borrower is a borrower who has failed to make all or part of a payment which is due for 30 or more calendar days after the due date. See FmHA Instruction 1951.906(i). Therefore, the County Office can take the payment on the 31st day after the due date.

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2 Action (Continued)

C

County Office Action

Farm Loan Managers (FLM) should notify the local CED of all borrowers that are 31 days past due. CED will take actions to send all Market Assistance Loans and LDP's for those borrowers on the past due list to the local FLM. FLM will apply those payments on the delinquent borrower's loans until such time as they become current.

Receipt of these payments supercedes any assignments to any other creditor. County Offices should use Code 58 for payments collected under this notice.

D

Effective Date

The effective date of the law was October 28, 2000.
